

In the Drawings

Applicants respectfully propose an amendment to Figures 1A, 2, 3, 12A, and 12B as shown in the enclosed replacement pages to remove reference characters not mentioned in the specification.

Applicants respectfully propose an amendment to Figures 9, 33, and 34 as shown in the enclosed replacement pages to add the reference characters.

Entry of the proposed amendment to the drawings is respectfully requested.

REMARKS

Reconsideration and withdrawal of the rejections set forth in the Office action dated September 30, 2005 are respectfully requested. Applicants thank the Examiner for an indication that claims 20, 21, 22, and 23 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants petition the Commissioner for a 3-month extension of time. A separate petition accompanies this amendment.

I. Amendments

A. In the Specification

The specification is amended to perfect the claim to priority.

B. In the Claims

Claim 1-8 are canceled without prejudice. Applicants reserve the right to pursue the canceled subject matter in a continuing application.

Claims 1, 5, 10, 15, and 16 are amended to standardize terminology and provide proper antecedent basis.

Claim 1 is further amended to include a source of polymer fluid operatively connected to the instrument. Basis for this amendment can be found in paragraph [0076].

Claim 10 is further amended to recite a step of injecting a polymer liquid into the tumor. Basis for this amendment can be found in original claim 20.

Claims 20 and 21-23 are amended for proper dependency.

C. In the Drawings

The proposed drawing amendments are detailed above. Applicants enclose herewith replacement drawing sheets.

No new matter is added by way of these amendments.

## II. Objection to the Specification

The Examiner objected to the specification for not providing the most current status of the priority application. Applicants have amended the specification accordingly. In view of the amendments to the specification, Applicants respectfully request withdrawal of the objection to the specification.

## III. Objection to the Claims

Claims 1, 5, 10, 15, and 16 were objected to for alleged formalities. Specifically, the Examiner objected to the language "said tip" or "said distal tip" for improper antecedent basis. Applicants have amended the claims in accord with the Examiner's kind suggestion. Accordingly, Applicants respectfully request withdrawal of the objections to the specification.

## IV. Rejections under 35 U.S.C. §102

Claims 1 and 2 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Cosman (U.S. Patent No. 6,241,725, hereinafter "the '725 patent").

Claims 1-4, 6, 8-14, and 17-18 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Cosman *et al.* (U.S. Patent No. 6,478,793, hereinafter "the '793 patent").

Applicants respectfully traverse these rejections.

### A. The Present Invention

The present system, as embodied by amended claim 1, relates to a system for palliatively treating a tumor on or in bone including an instrument, connecting structure for connecting the instrument to an activating device, and a source of polymer fluid operatively connected to the instrument for delivery of the fluid into the tumor. The method as in claim 10 includes a step of injecting a polymer liquid into a bone tumor.

B. The Cited References

COSMAN (THE '725 PATENT) relates to ablation of target structures, such as tumors, by direct thermal destruction.

COSMAN ET AL. (THE '793 PATENT) relate to a cooled ablation probe for ablative treatment of metastatic bone tumors.

C. Analysis

According to the M.P.E.P. § 2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference".

Neither the '725 patent nor the '793 patent teach at least either of (i) a system including a source of polymer liquid or (ii) a method including the step of injecting a polymer liquid into the tumor.

Accordingly, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 102(e).

V. Rejections under 35 U.S.C. §103

Claims 3-6 and 13-17 were rejected under 35 U.S.C. §103 as allegedly obvious over Cosman (the '793 patent) in view of LeVeen *et al.* (U.S. Patent No. 5,827,276).

Claims 3-8, 13-19, and 21 were rejected under 35 U.S.C. §103 as allegedly obvious over Cosman (the '793 patent) in view of Gough *et al.* (U.S. Patent No. 5,672,173).

These rejections are respectfully traversed.

A. The Present Invention is described above.

B. The Cited References

COSMAN THE '793 PATENT is described above.

LEVEEN ET AL. disclose a volumetric ablation apparatus comprising a probe having a plurality of wires deployable from a catheter.

GOUGH ET AL. relate to a multiple antenna ablation treatment apparatus.

C. Analysis

According to M.P.E.P. § 2143, one of the three basic criteria that must be met to establish a prima facie case of obviousness is that the prior art references (or references when combined) must teach or suggest all the claim limitations.

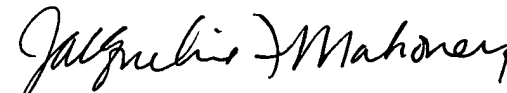
As noted above, the '793 patent fails to teach either of (i) a system including a source of polymer liquid or (ii) a method including the step of injecting a polymer liquid into the tumor. Neither of the Leveen et al. or Gough et al. references make up for this deficiency as neither make any mention of a source of polymer liquid or of injecting a polymer fluid into a tumor.

As the references, alone or in combination, fail to teach or suggest all the claim limitations, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103.

VI. Conclusion

Applicants respectfully submit that the pending claims are in condition for immediate allowance. The undersigned invites the Examiner to call (650) 838-4410 with any questions or comments. The Commissioner is hereby authorized and requested to charge any deficiency in fees herein to Deposit Account No. 50-2207.

Respectfully submitted,  
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